

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04--11958-RGS

MARTIN J. GALVIN, JR., ED.D,)
Plaintiff)
VS.)
)
THE TOWN OF YARMOUTH,)
PETER L. CARNES AND STEVEN XIARHOS)
Defendants)

**ANSWER OF THE DEFENDANTS TO PLAINTIFF'S
COMPLAINT AND JURY CLAIM**

The defendants hereby answer the plaintiff's Complaint, paragraph by paragraph, as follows:

INTRODUCTION

1. The allegations contained in this paragraph of plaintiff's complaint state a conclusion of law to which the defendants need not respond.

PARTIES

2. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.

3. The defendants admit the allegations contained in this paragraph.

4. The defendants admit the allegations contained in this paragraph.

5. The defendants admit the allegations contained in this paragraph.

JURISDICTION AND VENUE

6. The allegations contained in this paragraph of plaintiff's complaint state a conclusion of law to which the defendants need not respond.

7. The allegations contained in this paragraph of plaintiff's complaint state a conclusion of law to which the defendants need not respond.

FACTS

8. The defendants admit the allegations contained in this paragraph.
9. The defendants admit the allegations contained in this paragraph.
10. The defendants admit the allegations contained in this paragraph.
11. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
12. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
13. The defendants deny the allegations contained in this paragraph.
14. The defendants deny the allegations contained in this paragraph.
15. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
16. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
17. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
18. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
19. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.

COUNT I Wrongful Dissemination of CORI

20. The defendants reassert their responses to paragraphs 1 through 19 of this Answer as if fully repeated and realleged herein.
21. The allegations contained in this paragraph of plaintiff's complaint state a conclusion of law to which the defendants need not respond.
22. The allegations contained in this paragraph of plaintiff's complaint state a conclusion of law to which the defendants need not respond.
23. The defendants deny the allegations contained in this paragraph.
24. The defendants deny the allegations contained in this paragraph.

COUNT II
Mass.Gen.L.ch.12, §§11H and 11I

25. The defendants reassert their responses to paragraphs 1 through 24 of this Answer as if fully repeated and realleged herein.

26. The defendants deny the allegations contained in this paragraph.

27. The defendants deny the allegations contained in this paragraph.

COUNT III
Invasion of Privacy

28. The defendants reassert their responses to paragraphs 1 through 27 of this Answer as if fully repeated and realleged herein.

29. The allegations contained in this paragraph of plaintiff's complaint state a conclusion of law to which the defendants need not respond.

30. The defendants deny the allegations contained in this paragraph.

31. The defendants deny the allegations contained in this paragraph.

COUNT IV
Tortious Interference with Contractual Relations

32. The defendants reassert their responses to paragraphs 1 through 31 of this Answer as if fully repeated and realleged herein.

33. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.

34. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.

35. The defendants deny the allegations contained in this paragraph.

36. The defendants deny the allegations contained in this paragraph.

COUNT V
Intentional Infliction of Emotional Distress

37. The defendants reassert their responses to paragraphs 1 through 36 of this Answer as if fully repeated and realleged herein.

38. The defendants deny the allegations contained in this paragraph.

39. The defendants deny the allegations contained in this paragraph.

40. The defendants deny the allegations contained in this paragraph.

COUNT VI
Negligent Infliction of Emotional Distress

41. The defendants reassert their responses to paragraphs 1 through 40 of this Answer as if fully repeated and realleged herein.

42. The defendants deny the allegations contained in this paragraph.

43. The defendants deny the allegations contained in this paragraph.

44. The defendants deny the allegations contained in this paragraph.

WHEREFORE, the defendants deny that the plaintiff is entitled to judgment in any amount against the defendants and, furthermore, the defendants request this Honorable Court enter judgment for the defendants and against the plaintiff along with interests, costs and attorneys fees.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

By way of affirmative defense, the defendants state that the plaintiff's Complaint fails to state a cause of action upon which relief can be granted.

SECOND DEFENSE

By way of affirmative defense, the defendants say that if the plaintiff suffered injuries or damages, as alleged, such injuries or damages were caused by someone for whose conduct the defendants were not and are not legally responsible.

THIRD DEFENSE

By way of affirmative defense, the defendants state that the plaintiff cannot recover for the reason that the plaintiff failed to give notice of the damages allegedly suffered by the plaintiff to the defendants as required by M.G.L. c. 258.

JURY CLAIM

THE DEFENDANTS CLAIM A TRIAL BY JURY AS TO ALL ISSUES PROPERLY TRIABLE TO A JURY.

Defendants,
By their attorneys,
BRODY, HARDOON, PERKINS & KESTEN, LLP

/s/ Leonard H. Kesten

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Dated: October 13, 2004